

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Meeting Minutes

February 19, 2003

10:00 AM – 2:00 PM

State Courts Building

Conference Room 119 A&B

Phoenix, AZ

CIDVC Members Present

Hon. Karen O'Connor, Chair
Hon. Chris Wotruba, Vice Chair
Jerry Bernstein
Lt. Mark Carpenter
Martha Fraser Harmon
Donna Irwin
Bob James
Hon. Ronald Karp
Robert M. Lehner
Hon. Denise Lundin
Hon. Mary Helen Maley
Hon. Mark Moran
John Pombier, Esq.
Tracey Wilkinson

Members participating by telephone

Hon. Dana Hendrix
Dr. Anu Partap

Members using a Proxy

Staff Present

Catherine Drezak

Quorum: Yes

1. Call Meeting to Order: Judge O'Connor

The meeting was called to order at 10:20 AM. All those persons present introduced themselves. Guests attending the meeting were welcomed.

Patricia Klahr
Dr. Teresa Lanier
Sheri Lauritano

Members RSVP (unable to attend)

Hon. George Anagnost (LJC)
Margaret Bentzen
Allie Bones
Hallie Bonger-White, Esq.
Hon. Sherry Geisler (LJC)

Guests

David Berg, Information Technology
Division, AOC
Karen Kretschman, Court Services, AOC
Susan Pickard, Court Services, AOC
Dianne Post, AzCADV

2. Review of Previous Meeting Minutes: Judge O'Connor

Minutes of the December 11, 2002 meeting were reviewed and no additions or corrections were offered.

Motion: Approve December 11, 2002 as presented.
Vote: Pass
Tasks: None

3. Workgroup Reports: Workgroup Chairs

A. Criminal DV Benchbook Workgroup: Judge Moran

Several suggestions were received and are being incorporated into the draft. Among the changes are the inclusion of a Batterer Accountability Program recommendation section, a revised Introduction and the Department of Behavioral Health Approved DV Treatment facilities list. The change recommendations were received too late to be included in the Criminal Benchbook section of the CIDVC agenda. The Criminal Benchbook will be an agenda item for the April meeting.

B. CPOR Policy workgroup: Judge Moran

A meeting was held on February 7, 2003 with law enforcement representatives to specifically discuss the issue of law enforcement access to unserved protection orders. After much discussion on the pros and cons of the issue, the workgroup recommends that CIDVC approve a policy that allows access to unserved protection orders by law enforcement. The workgroup feels this is in the best interest of and protects the safety of both victims and officers. Specific implementation steps were not identified; however, the AOC has the ability to incorporate such a process into the Court Protective Order Repository (CPOR). A point of interest was noted. In the business process there is sometimes an asynchronous flow of the certificate of service paperwork. Currently the business process functions on the following assumption: 1) order is issued, 2) order is served, 3) certificate of service is returned to the court, 4) the court forwards the certificate to holder of record (HoR), and 5) the HoR enters the service information into the National Criminal Information Computer (NCIC). However, sometimes the certificate of service reaches the HoR before reaching the court. An example of this occurrence is when a sheriff's officer serves the order and the same sheriff's office is the HoR. Sending the certificate of service to the court and then having the court return the certificate of service back to the sheriff's office can take a week. Meanwhile there is a valid, enforceable order "on the street" that law enforcement cannot act upon due to the fact that the order is still listed as "unserved" and therefore inaccessible to law enforcement. As such, CIDVC should at least consider granting access to unserved orders to the Holders of Record. The workgroup meeting minutes are available upon request. There is also a list of remaining policy issues which need to be discussed and the compiled list is available on the CPOR Policy Workgroup web page. A formal recommendation package will be presented for approval at the April 16, 2003 meeting. An undecided issue: Whether to approve this position now.

C. DV Forms Workgroup: Mr. James

Many people have worked hard and participated in the discussions on the forms and the DV Forms workgroup wanted to focus on the content of the language on the forms. The

workgroup has created three new forms: Order of Protection (OP), Injunction Against Harassment (IAH) and Injunction Against Workplace Harassment (IAWH). All of these forms are one page in length to streamline the order and clarify the language. The most dramatic change is in paragraph two of the OP form. A complete “logic” change was introduced. Instead of listing all of the actions the defendant is allowed to do, the new proposal is to prohibit everything and instead list the exceptions. The logic change produces a clearer, more enforceable order that limits the defendant’s ability to “creatively circumvent” the order. The “civil standby” paragraph was revised to allow judicial discretion. Instead of numbering the paragraphs, the workgroup inserted “headings” on each paragraph to enhance the use of a dynamic document which can be printed from a computer program. The PCO codes will be automatically printed at the bottom of the form. The IAH and IAWH has similar changes. It was noted, however, that the forms do not conform to Rule 10 D, in regard to the Superior Court margin requirements. CIDVC, however, did not vote on approval of the forms; to be placed on the April agenda. A draft of a “generic” petition form was created. The workgroup envisions using one form to petition for any Protective Order. Some of the changes suggested by CIDVC include:

- 1) Move the Brady flag section from the bottom of the form to a line above the signature line.
- 2) Bold and underline “exempt” in “No Contact” paragraph.
- 3) Remove “cell phone” from “No Contact” paragraph.
- 4) Change language in the middle section of the heading box to provide more flexibility. Suggested language: “You may be arrested and prosecuted for crimes you may have committed in disobeying this order.”
- 5) Last sentence of “Notice”: start with the sentence with “Report...” and strike “should be reported.”
- 6) Need to have the “counseling” option returned to the order.
- 7) IAH expand “No Crimes” section to include other crimes such as, aggravated harassment and using the phone to terrify, etc.

4. Meeting Business: Judge O’Connor

A. Web Page Instruction: Susan Pickard

Susan has developed and demonstrated two options for CIDVC. The committee chose the format and placement members felt was most responsive to their needs. On-line discussion areas have been developed for those times when workgroups cannot meet and collaborative work must be done. The CIDVC workgroups are the only ones using the discussion areas for their work product at this time. CIDVC members were positive regarding the web site development.

B. Procedural Review: Karen Kretschman

The Court Programs Unit has been reviewing all of the committees with the intent of enhancing the impact of each committee in their respective tasks. CIDVC is charged to study and make recommendations on the impact of DV issues on courts throughout the state. Although CIDVC focuses on the courts, CIDVC recognizes that victims and the community have to be a part of the overall solution to domestic violence. In a variety of ways the members expressed a feeling of a disconnect between CIDVC and other committees, the AOC, courts and the community. This presentation focused on the strengths and weaknesses of CIDVC. While the committee has been active and produced many products, such as

mandatory DV Forms, DV Benchbook and informative training materials, the committee has not been effectively conversing with the Arizona Judicial Council (AJC). Developing a regular schedule of interaction with AJC will enhance CIDVC's ability to impact court policies. CIDVC agreed that a quarterly "report" to AJC is in their best interests. Also a discussion was held regarding a request by Agnes Felton, Director, Education Services, to change the format (script issue), revision schedule and rename the DV Benchbook. Ms. Felton is recommending that the DV Benchbook be renamed to DV Manuel. The committee felt strongly that they need to maintain control of the publication content, format and name. CIDVC requested copies of the "benchbook" publications produced by Education Services for their review. CIDVC will make a decision on the requested changes at the April meeting.

C. Strategic Plan Review: Catherine Drezak

CIDVC members have been busy but it appears that the committee has gone "off track" becoming a reactive rather than a proactive body. Four categories of responsibilities were identified as activities which the committee should center their resources. These activities, prioritized from most to least important from it's strategic planning of March 2001, are:

1) Education - CIDVC discussed contacting Education Services regarding trying to integrate some DV training into the agenda for the Judicial Conference. Dianne Sweeney wants the DV Education workgroup to submit a short proposal for subject matters and length of time. This proposal would be forwarded to the Planning Committee. Diane believes that we may propose to organize the DV section of the "Potpourri" for the limited jurisdiction judges currently set for two and one-half hours. An alternate idea is to target judges other than limited court judges by integrating a specific proposal into the present all-day domestic relations presentation. The two areas CIDVC would like to be addressed are: Batterer-Providers, and the Effects of DV on children. The contact person for that would be Catherine Drezak. The Education Workgroup will solicit ideas for specific topics since time is short. Judge Moran will field these ideas and then go over them to try to come up with a proposed program. We are responsible for putting together faculty and materials for any program we propose. Diane Sweeney will update Judge Moran on the deadline for submission of proposals, and also provide him with a copy of the materials currently used to teach DV training for new judges at the limited court level. Another suggestion was to develop a web or computer based education session that judicial officers can access as they are able.

2) Technology - The DV Forms workgroup is addressing the technology issues as they revise the DV Forms. The largest concern remains the issue of inadequate funding and personnel resources.

3) Legislation - CIDVC has submitted a legislative package every year. Last session the AJC did not include CIDVC's proposal into the Court's Legislative Package. Perhaps a closer relationship with the other court committees will promote a better understanding of DV issues with AJC.

4) Victim Safety/ Batterer Accountability - CIDVC accepted the Batterer Accountability recommendations developed by the Men's Anti-violence Network and the Governor's DV Technical Subcommittee. These recommendations will be incorporated into the DV Benchbook and the Criminal DV Benchbook.

5. Old Business: Judge O'Connor

A. AO 98-66 conversion to ACJA 5-209
Deferred until the April 16, 2003 meeting.

6. New Business: Judge O'Connor

None submitted.

7. Call to the Public: Public Attending

Dianne Post, Arizona Coalition Against Domestic Violence, announced an upcoming the "Forging Partnership Conference." It will be held at the Old Town Hotel & Conference Center, Scottsdale from March 30th - April 2nd. Anyone interested, please contact the AzCADV at (602) 279-2900 or Catherine Drezak at (602) 542-9607.

8. Next Meeting: April 16, 2003, 10:00 AM - 2:00 PM, AOC room 119, Phoenix

9. Adjournment: Judge O'Connor

The meeting adjourned at 1:00 PM.